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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,300	08/20/2001	A. John Michaelis	27600/M217A	5678

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EXAMINER

TREMBLAY, MARK STEPHEN

ART UNIT	PAPER NUMBER
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2827

DATE MAILED: 03/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/933,300

Applicant(s)

MICHAELIS ET AL.

Examiner

Mark Tremblay

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Applicant: Michaelis et al.

Filing date: 8/20/2001

***Claim Rejections - 35 USC § 112***

5 Claim 5 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

10 Re claim 5, the claim literally recites a color coded scanner, based on the identification code. The plain, literal reading of the claim makes no sense to a person skilled in the art. The skilled artisan would have to substitute other words not chosen and used by Applicant to understand the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

15 A person shall be entitled to a patent unless --  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

20 Claims 1-4, 12-13 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent #5,691,684 to Murrah ("Murrah" hereinafter). Murrah teaches An apparatus for scanning a machine readable symbol and providing an audio feedback signal stored in the machine readable

symbol to a user, the apparatus comprising:

25 an input device (20) capable of detecting the machine readable symbol and generating an electrical signal indicative of the machine readable symbol (20a);

a controller (18) operatively coupled to the input device for receiving the electrical signal indicative of the machine readable symbol;

30 a memory (22, 24) device operatively coupled to the controller, the memory device storing a digital representation of the electrical signal indicative of the machine readable symbol, and

a speaker operatively coupled to the controller, the controller causing the speaker to generate the audio feedback signal from the digital representation of the electrical signal indicative of the machine readable symbol (see e.g. abstract).

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

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Claims 9-11, 18 are rejected under 35 U.S.C. § 103 as being unpatentable over Murrah. Murrah discloses the features of the invention as described above, and further discloses that the can demander can be any type of alerting device (col. 4, lines 9-10), but fails to explicitly teach that the demander can may comprise a display. Murrah also teaches that a display is also provided, but not explicitly for use in conjunction with the alerter function. Using a visual alert is common in virtually all the electrical arts. The combination of visual and audio feedback is typically provided together to aid in versatility. For example, a hearing impaired user would have difficulty to make use of Murrah's exemplary audio alerter. A sight impaired person might not be able to read the display. A visual alert would help a person who wasn't listening at the time of the audio alert, and an audio alert would help a person not looking at the display. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to provide equivalent audio and visual alerts on the Murrah system because the two compliment

each other, much as the ears compliment the eyes in performing everyday tasks.

5 Claims 20-23, 26, 28, and 30-33 are rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent #5,905,248 to Russell et al. ("Russell" hereinafter) in view of Murrah. Russell teaches a method of facilitating an Internet shopping sequence (see e.g. column 2, lines 41-46) which includes reading bar coded information to effect the transaction. Russell further teaches the use of both audio and video feedback and interaction with the user, regarding the input information, and the response information. Russell teaches that the codes to provide the input can be of any sort, including 1-D and 2-D bar codes. Russell does not concentrate on the process of  
10 providing feedback to the user. Murrah teaches a method of facilitating a shopping sequence by reading bar codes, and providing audio and video feedback, wherein the feedback may derive from the read codes, in order to prompt or alert the user to needed actions, as outlined above, and described more fully in the patent. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the teachings of Russell which lack  
15 details of user feedback with the teachings of Murrah in order to obtain the advantages of the Web based purchase transactions described by Russell with the advantages of the shopping list compiler and user prompting means taught by Murrah.

20 Claims 3-4, 6-8, 14-16, 19, 24, 27, and 29 are rejected under 35 U.S.C. § 103 as being unpatentable over the combined teachings of Russell and Murrah, further in view of U.S. Patent #5,971,277 to Cragun et al. Russell and Murrah teach the features of the invention as described above, but do not teach the use of a pass code or authorization code. Cragun teaches that a Customer ID card can be scanned by the same type of scanner which reads object codes. It would have been obvious at the time the invention was made to a person having ordinary skill in the art  
25 to combine the teachings of Cragun with the combined teachings of Russell and Murrah, because this would allow the automated entry of customer identification via the scanner taught by Russell and Murrah, in order to "check out" or purchase merchandise, as taught by Cragun. The customer identification is the same thing as a "pass code" or an authorization, etc. because it is a string of numbers unique to the customer, which uniquely identifies the customer and no other.

It is used in an equivalent manner to the credit card taught by Russell in figure 6a, in an alternative embodiment.

Several of the claims recite a "pen" scanner. Examiner finds a "pen" scanner to be admitted prior art by Applicant, old and well known, and equivalent to embodiments taught by Russell.

Claims 5, 17, and 25 are rejected under 35 U.S.C. § 103 as being unpatentable over the combined teachings of Russell and Murrah, further in view of U.S. Patent #5,324,922 to Roberts. Russell and Murrah teach the features of the invention as described above, but do not teach the use of "style sheets" or color codes as Applicant has defined them. Roberts teaches the use of style sheets and color codes in the manner that Applicant has defined them. See especially figure 8. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the teachings of Russell and Murrah with the teachings of Roberts, which deals with highly analogous subject matter of managing shopping lists using a bar code reader to scan in item codes, and further details the types of codes that can be scanned in, because Roberts provides teachings to solve a problem of ordering via bar codes that Russell and Murrah fail to address, namely, the use of a series of codes to specify exactly what is desired to be purchased.


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U. S. Patent #5,978,733 to Hudetz et al., U. S. Patent #5,938,727 to Ikeda, U. S. Patent #5,684,288 to Renvall, U. S. Patent #5,640,193 to Wellner, and U. S. Patent #5,047,614 to Bianco are cited for showing other examples of a purchase system aided by bar codes.

U. S. Patent #5,664,110 to Green et al. is cited for showing a detailed example of visual prompting during a purchase.

*Voice*

Inquiries for the Examiner should be directed to Mark Tremblay at (703) 305-5176. The Examiner's regular office hours are 10:30 am to 7:00 pm EST Monday to Friday. Voice mail is available. If Applicant has trouble contacting the Examiner, the Supervisory Patent Examiner, Michael Lee, can be reached on (703) 305-3503. Technical questions and comments concerning PTO procedures may be directed to the Patent Assistance Center hotline at 1-800-786-9199 or (703) 308-4357.

  
MARK TREMBLAY  
PRIMARY EXAMINER

March 20, 2003